

In the Supreme Court of the United States

OCTOBER TERM, 1947

No. 238

G. H. LOVE, INC., PETITIONER

v.

PHILIP FLEMING, ADMINISTRATOR, OFFICE OF
TEMPORARY CONTROLS

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
STATES CIRCUIT COURT OF APPEALS FOR THE NINTH
CIRCUIT

MEMORANDUM FOR THE RESPONDENT

This case is similar to *A. H. Dossett, d/b/a J. A. Dossett Lumber Company v. Philip B. Fleming, Temporary Controls Administrator*, No. 263, now pending on petition for a writ of certiorari to the Circuit Court of Appeals for the Sixth Circuit. Here, as in the *Dossett* case, an "Inspection Requirement" was issued by the Director of the Los Angeles District Office, Office of Price Administration, on November 28, 1944, requiring petitioner to permit the representatives of the Office of Price Administration named therein to inspect certain of its books and records (R. 6-8).

(1)

After petitioner refused to permit such inspection, Chester Bowles, then Price Administrator, on December 28, 1944, filed a petition in the District Court for the Southern District of California, praying that an order issue requiring it to do so (R. 2-9). On July 26, 1945, the district court entered an order requiring petitioner to permit "representatives of the Office of Price Administration" to inspect, at petitioner's place of business, the records specified in the order (R. 21-22). On appeal to the Circuit Court of Appeals for the Ninth Circuit, the order of the district court was affirmed (R. 77-82; 161 F. 2d 726).¹

Since the entry of the judgment below on May 3, 1947, all authority of the Office of Price Administration, even as part of the Office of Temporary Controls, has either been terminated or transferred to other agencies of the Government, as described in our Memorandum for the Respondent in the *Dossett* case. Hence, irrespective of whether an action to enforce an inspection requirement is covered by the saving clause of the Emergency Price Control Act, a question discussed at some length in the petition for certiorari (pp. 19-25), it is clear that the questions presented respecting the validity of the inspection

¹ On motions of the Government, Paul A. Porter and Philip B. Fleming were successively substituted as appellees in the circuit court of appeals (R. 67-75).

requirement in this case are academic and moot, since the Office of Price Administration, the representatives of which are the only persons authorized by the order of the district court to inspect petitioner's books, no longer exists.

We respectfully submit, therefore, that the petition for a writ of certiorari should be denied.

✓ PHILIP B. PERLMAN,
Solicitor General.

T. VINCENT QUINN,
✓ *Assistant Attorney General.*

✓ ROBERT S. ERDAHL,
✓ SHELDON E. BERNSTEIN,
Attorneys.

OCTOBER, 1947.